



FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

SSP/168232

PRELIMINARY RECITALS

Pursuant to a petition filed August 24, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability in regard to State Supplemental SSI benefits, a telephonic hearing was held on October 01, 2015. At hearing, petitioner consented to this administrative law judge contacting the Division of Health Care Access and Accountability to confirm the agency's position on the change in SSI benefits. This administrative law judge did so, and contacted petitioner by phone, leaving a voicemail message explaining the information as further explained below.

The issue for determination is whether the agency acted correctly in changing her state SSI payment to the maximum rate for a one-person household after her husband was [REDACTED].

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: written submittal of Melissa Sherry, State SSI Analyst
Division of Health Care Access and Accountability
Department of Health Services
PO Box 6680
Madison, WI 53716-0680

ADMINISTRATIVE LAW JUDGE:

Kelly Cochrane
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Winnebago County.
2. In July 2015 the Social Security Administration (SSA) put petitioner's husband in a non-payment status code of N22 (██████████).
3. On August 19, 2015 the Division of Health Care Access and Accountability issued a notice to petitioner stating that her state SSI payment would end on August 30, 2015.
4. On August 26, 2015 the Division of Health Care Access and Accountability issued a notice to petitioner stating that because she was eligible for federal SSI, that she would also receive state SSI.
5. Petitioner's state SSI payment was changed from \$66.03 monthly (her half of the \$132.05 maximum payment rate for an eligible couple) to \$83.78 (maximum State SSI payment rate for a one person household) effective September 1, 2015.

DISCUSSION

A person must receive **federal** SSI payments to be eligible for **state** SSI supplement payments. Wis. Stat. §49.77(2)(a)2. The issue in this case resulted when the federal government ended the petitioner's husband's federal SSI payments due to his incarceration. This caused her federal SSI payment and her state SSI payment to change.

According to the information received from the State SSI office, petitioner and her husband had previously been receiving monthly **federal** SSI in the amount of \$201.50. When he became ██████████, his **federal** SSI was cancelled, and accordingly, his state SSI was cancelled. Petitioner's **federal** SSI was reduced to \$36 in September 2015 because it based her federal payment on her household size of 1 and her income alone, as her husband was now out of the home. If she has issues with the new **federal** amount, she needs to follow up with the SSA to appeal it there.

Petitioner and her husband had previously been receiving **state** SSI in the amount of \$132.06 (or \$66.03 for each), which is the maximum payment for a couple. When he became ██████████, petitioner's **state** SSI was changed to \$83.78, which is the maximum rate for a one person household. See *SSI Administration Handbook*, §4.1.7, available online at <http://www.emhandbooks.wisconsin.gov/ssi-admin/ssi-admin.htm> and see also online at <https://www.dhs.wisconsin.gov/ssi/benefits.htm>.

The petitioner did not understand what was happening with her SSI, and I understand why after reviewing the confusing notices she received. She did not disagree that her husband had been ██████████. Thus, when he left the home, the state SSI payment was changed to the maximum rate for a one-person household. As I only have jurisdiction to address the state SSI payment, I can only conclude that the agency acted correctly here given the evidence before me.

CONCLUSIONS OF LAW

The agency acted correctly in changing petitioner's state SSI payment to the maximum rate for a one-person household after her husband was ██████████.

THEREFORE, it is

ORDERED

The petition for review herein is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 2nd day of November, 2015

\sKelly Cochrane
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on November 2, 2015.

Division of Health Care Access and Accountability
State SSI